

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS

No. 6:22-cv-00445

**Edward Todd Jacobs,**

*Movant,*

v.

**United States of America,**

*Respondent.*

**ORDER**

Movant Edward Todd Jacobs, proceeding pro se, filed this motion to vacate or correct sentence under 28 U.S.C. § 2255, complaining that his sentence does not comport with his sentencing agreement. The case has been referred to United States Magistrate Judge K. Nicole Mitchell. Doc. 2.


Respondent filed a motion to dismiss this proceeding on the grounds that movant had previously sought relief under § 2255 and had not secured permission from the Fifth Circuit Court of Appeals to file a successive petition. Doc. 7. Movant did not file a response to this motion. On December 1, 2023, the magistrate judge issued a report recommending that the motion to dismiss be granted and the motion to vacate or correct sentence be dismissed without prejudice for want of jurisdiction. Doc. 8.

A copy of this order was sent to movant's last known address, but no objections have been received. The Fifth Circuit has explained that where a letter is properly placed in the United States mail, a presumption exists that the letter reached its destination in the usual time and was actually received by the person to whom it was addressed. *Faciane v. Sun Life Assurance Co. of Canada*, 931 F.3d 412, 420–21 & n.9 (5th Cir. 2019).

When there have been no timely objections to a magistrate judge's report and recommendation, the court reviews it only for clear error. *See Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1420 (5th Cir. 1996). Having reviewed the magistrate judge's

report, and being satisfied that it contains no clear error, the court accepts its findings and recommendation. The above-styled motion to vacate or correct sentence is dismissed without prejudice for want of jurisdiction.

*So ordered by the court on May 9, 2024.*

  
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J. CAMPBELL BARKER  
United States District Judge